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HYNIX SEMICONDUCTOR INC. and
12 HYNIX SEMICONDUCTOR AMERICA INC.

13
14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16

17 THE STATE OF CALIFORNIA et al.,
18 Plaintiffs,

19 v.

20 INFINEON TECHNOLOGIES AG et
21 al.,
22 Defendants.

Case No. C 06-4333 PJH
Related to MDL No. 1486

Assigned for all purposes to the
Hon. Phyllis J. Hamilton

**STIPULATION AND ~~PROPOSED~~
ORDER GRANTING DEFENDANTS
LEAVE TO AMEND THEIR
ANSWERS TO THE THIRD
AMENDED COMPLAINT**

STIPULATION

This Stipulation is entered into between Plaintiff the State of Florida (“Plaintiff” or “Florida”) and Defendants Hynix Semiconductor Inc., Hynix Semiconductor America Inc., Nanya Technology Corp., Nanya Technology USA, Infineon Technology AG, Infineon Technology North America Corp., Micron Technology, Inc., Micron Semiconductor Products, Inc., Elpida Memory, Inc., Elpida Memory (USA) Inc. and NEC Electronics America, Inc. (collectively “Defendants”) and is made with reference to the following facts:

A. WHEREAS on May 13, 2008, Defendants filed and served Answers to the Third Amended Complaint in this action; and

B. WHEREAS each of the Defendants named herein asserted an affirmative defense against Florida’s claims under the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”), including Elpida’s Sixtieth Affirmative Defense, Hynix’s Sixty-Second Affirmative Defense, Infineon’s Forty-Third Affirmative Defense, Micron’s Forty-Third Affirmative Defense, Nanya’s Eleventh and Sixty-Fourth Affirmative Defenses and NEC’s Sixty-Seventh Affirmative Defense (collectively the “FDUTPA Affirmative Defenses”); and

C. WHEREAS Plaintiff Florida filed a Motion to Strike the FDUTPA Affirmative Defenses and one other Affirmative Defense that is not part of this Stipulation (NEC’s “*Mack* Affirmative Defense”) on July 2, 2008; and

D. WHEREAS prior to and since Florida filed its Motion to Strike, Florida and Defendants have met and conferred in an attempt to resolve Florida’s challenge to the FDUTPA Affirmative Defenses.

THEREFORE, subject to approval of the Court, Florida and Defendants hereby stipulate and agree as follows:

1. Defendants shall be granted leave to amend their Answers to the Third Amended Complaint to amend each of the FDUTPA Affirmative Defenses, including Elpida’s Sixtieth Affirmative Defense, Hynix’s Sixty-Second Affirmative

1 Defense, Infineon's Forty-Third Affirmative Defense, Micron's Forty-Third Affirmative
2 Defense, Nanya's Eleventh and Sixty-Fourth Affirmative Defenses and NEC's Sixty-
3 Seventh Affirmative Defense; and

4 2. Without prejudice to Florida's right to challenge this Affirmative
5 Defense on the merits at a later time, Florida and Defendants stipulate and agree that the
6 revised FDUTPA Affirmative Defenses shall state as follows:

7 Plaintiff's claims under Florida Stat. 501.201 *et seq.* fail
8 because the alleged injuries of Plaintiff and those it seeks to
9 represent or on whose behalf it purports to pursue claims are
10 too speculative, derivative, indirect or remote, and therefore
11 were not proximately caused by [Defendant].

12 3. Florida shall withdraw its Motion to Strike the
13 FDUTPA Affirmative Defenses; and

14 4. This Stipulation shall not affect Florida's Motion to
15 Strike NEC's Sixty-Ninth Affirmative Defense, which motion is set for
16 hearing on September 10, 2008; and

17 5. Defendants shall have 20 days from the date of entry
18 of the [Proposed] Order to file their amended answers.

19
20 SO STIPULATED.

21 Dated: August 20, 2008

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ATTESTATION OF FILING

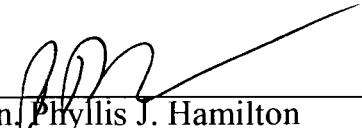
Pursuant to General Order No. 45 § X(B), I hereby attest that I have obtained concurrence in the filing of Plaintiff State of Florida and the other Defendants named herein to this Stipulation and [Proposed] Order Granting Defendants Leave to Amend Their Answers to the Third Amended Complaint.

/Steven H. Bergman/
Steven H. Bergman

~~**[PROPOSED] ORDER**~~

Pursuant to the Stipulation of the parties named above, IT IS SO
ORDERED.

Dated: 8/25/08



Hon. Phyllis J. Hamilton
United States District Judge